

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CAREDX, INC.,

Plaintiff,

v.

Civil Action No. 19-662-CFC-CJB

NATERA, INC.,

Defendant.

ORDER

I have reviewed the Proposed Final Pretrial Order (D.I. 297) (PTO) submitted by the parties on September 7, 2021. The PTO is unacceptable. By way of example:

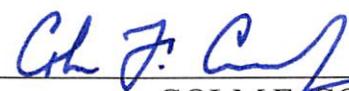
- A 300-page section of the PTO consists of 15 briefs and 16 exhibits, none of which are separated by tabs.
- The PTO states that Natera's objections to CareDx's identified witnesses are included in Exhibit 9 and CareDx's objections to Natera's identified witnesses are included in Exhibit 10. D.I. 297 ¶¶ 41, 43. But no objections appear in these exhibits, even though the parties assert in other parts of the PTO objections to certain witnesses.
- CareDx contends in its Motion *In Limine* No. 2 that

Natera's statement of contested facts identifies two new categories of allegedly false claims: 1) CareDx's advertisements include unsubstantiated claims of 95% NPV and 44% PPV (paragraphs 1, 29, 31, and 32); and 2) CareDx falsely claimed that the Stites paper was "prospective" (paragraphs 53 and 64) and "validated, or clinically validated, use of a .5% dd-cfDNA threshold" (paragraph 57). These claims were not disclosed during discovery.

D.I. 297-13 at 3. But Natera does not allege or suggest in paragraphs 1, 29, 31 or 32 of its statement of contested facts that CareDx's advertisements include unsubstantiated claims of 95% NPV and 44% PPV. Nor does Natera allege or suggest in paragraphs 53 or 64 of its statement of contested facts that CareDx falsely claimed that the Stites paper was "prospective." And finally, Natera does not allege or suggest in paragraph 57 of its statement of contested facts that CareDx falsely claimed that the Stites paper "validated, or clinically validated, use of a .5% dd-cfDNA threshold."

- Natera's Opposition to CareDx's Motion *In Limine* No. 2 is watermarked "DRAFT." See D.I. 297-13 at 33.
- CareDx cites as exhibits to its Motion *In Limine* No. 3 two papers and a deposition transcript that are not attached as exhibits to the motion.

NOW THEREFORE, at Wilmington on this Twentieth day of September in 2021, it is HEREBY ORDERED that the Proposed Final Pretrial Order (D.I. 297) is struck. It is FURTHER ORDERED that the parties shall submit a revised proposed final pretrial order no later than noon on Thursday, September 24, 2021.



COLM E. CONNOLLY
CHIEF JUDGE